



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/168682

PRELIMINARY RECITALS

Pursuant to a petition filed September 9, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability (DHCAA or Division) in regard to Medical Assistance (MA)/BadgerCare Plus (BCP), a hearing was held on October 27, 2015, by telephone.

The issue for determination is whether the Division correctly denied a prior authorization request for an Occupational Therapy (OT) functional capacity evaluation.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By written submission of [REDACTED] OTR
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Oneida County. She is certified for BadgerCare Plus.

2. On August 11, 2015, a prior authorization request (#...[REDACTED]) was filed on the petitioner's behalf requesting an OT functional capacity evaluation. The cost of the evaluation is \$320. The Division issued written notice of denial of that request on August 27, 2015. The authorization request did not include a request for a subsequent course of OT treatment.
3. The Division's basis for denial of the evaluation request is that a functional capacity evaluation is never a covered service by BadgerCare Plus.
4. The petitioner was injured in a work-related fall in 2012. She currently participates in the W2 work program, and has a Social Security Disability appeal pending. At the suggestion of a W2 caseworker, the petitioner underwent an OT functional capacity evaluation on July 31, 2015.
5. The stated purpose of the evaluation on the Initial Evaluation document is: "The purpose for evaluation is to assist with her application for disability."
6. As a result of the July evaluation, the W2 worker altered the petitioner's W2 work responsibilities. The petitioner's treating physician also adjusted the petitioner's medication after seeing the evaluation results.

DISCUSSION

The Wisconsin MA/BadgerCare program may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), and as elaborated upon by Wis. Admin. Code, Ch. DHS 107. A *medically* necessary OT evaluation can be covered by MA. Wis. Admin. Code § DHS 107.17(3)(c).

The requested occupational therapy (OT) service in this case is not covered by the MA program. The purpose of this evaluation was to assist the petitioner's vocational adjustment in the W2 program and to buttress her Social Security appeal; the purpose was not to set up a course of OT services for the petitioner. It may have been vocationally necessary, but it was not medically necessary. Only medically necessary services can be approved. Wis. Admin. Code § DHS 107.02(3)(e)1.

The Division has written policy in place that reinforces its denial decision:

Topic #4571

Information Regarding Evaluations

...

ForwardHealth covers evaluation for PT, OT, and SLP, when all applicable rules and regulations are met. The following questions and answers are offered to assist providers with information regarding BadgerCare Plus coverage of therapy evaluations:

...

Q: If a therapist has received a prescription to evaluate an individual, why might a PA request for the evaluation be denied?

A: ForwardHealth has a specific, legal definition of medical necessity. ...The following are examples of evaluations that are not medically necessary. PA requests for these evaluations would not be approved for reimbursement by Wisconsin Medicaid:

...

- The reason for performing the evaluation was not medically necessary (e.g., an evaluation performed for the purpose of vocational training.) The requirement and purpose for performance of a service, such as a test or assessment, must be medically necessary, even if the professional skills of a therapist are needed to administer the service. ...

If the reason for referral or the requested therapy services is not medically necessary or is noncovered, the evaluation will not be reimbursed. Examples include, but are not limited to, the following: ...

- Assessments for the purpose of the member's participation in a vocational or recreational program, such as ergonomic evaluations, driving evaluations, or an evaluation to obtain a hunting license. Functional capacity evaluations are not covered by BadgerCare Plus.

ForwardHealth Online Provider Handbook, Topic #4571, online at <https://www.forwardhealth.wi.gov/WIPortal/Online%20Handbooks/Display/tabid/152/Default.aspx> . The Division was therefore correct in denying payment for the requested evaluation service.

CONCLUSIONS OF LAW

1. The Division correctly denied prior authorization for the requested functional capacity evaluation, as this item is not an MA/BadgerCare-covered service.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

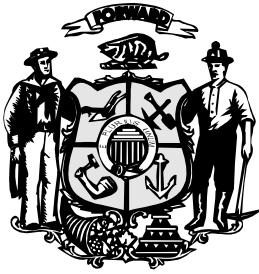
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 8th day of December, 2015

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 8, 2015.

Division of Health Care Access and Accountability